

**APPENDIX 23. LETTER CLARIFYING CONCLUSIONS OF TWO
REPORTS [MELQUIST (1985) AND GROVES (1987)]
REGARDING GRIZZLY BEAR PRESENCE IN CENTRAL IDAHO**



IDAHO FISH AND GAME
600 South Walnut/Box 25
Boise, Idaho 83707-0025

Philip E. Batt/Governor
Stephen P. Mealey/Director

March 28, 1998

RECEIVED
AND WILDLIFE
GRIZZLY BEAR RECOVERY
COORDINATIONS OFFICE

APR 9 1998

Dr. Chris Servheen
Grizzly Bear Recovery Coordinator
U.S. Fish and Wildlife Service
University Hall, Rm. 309
University of Montana
Missoula, MT. 59812

Dear Dr. Servheen:

I would like to clarify some possible misperceptions about a completion report I wrote entitled, *A preliminary survey to determine the status of Grizzly Bears in the Clearwater National Forest of Idaho*, dated 1 January 1985. In this report, I identified 2 bears as confirmed grizzlies: 1 reported killed in 1909, the rug of which I never observed; 1 reported killed by a Ranger Puckett in 1956 or 1957, which was later determined to actually be a black bear. I also compiled 8 reports of grizzly bears reportedly killed on or adjacent to the Clearwater National Forest between 1909 and 1978; 2 of these were the ones reported as confirmed grizzlies, while the remaining 6 reports could not be confirmed. In Table 6 I list 10 reports of reported sows with cubs observed between 1967 and 1984; none could be confirmed.

In my discussion regarding the "current status" of grizzlies in the Clearwater National Forest, I only speculate on whether or not grizzlies still existed in the Clearwater, based on, for the most part, subjective information provided to me by those I interviewed. The bottom line is that I failed to come up with imperial data to confirm the presence of grizzlies there. If I suggest that "a few grizzlies were likely to be inhabiting the area," it is only a subjective assessment on my part and should not be construed as evidence that grizzlies do indeed occupy the Clearwater country.

Similarly, when Craig Groves was working for me and completed, *A compilation of grizzly bear reports for central and northern Idaho*, in February 1987, there was no imperial data to confirm the presence of grizzlies in central Idaho. To interpret the information from both reports as evidence grizzlies exist in the Clearwater area and central Idaho would be mere speculation and inappropriate.

Since these reports were completed, 2 remote camera surveys for grizzly bears were conducted in the Bitterroot Grizzly Bear Evaluation Area in 1990 and 1991. Neither survey revealed the presence of grizzly bears. These results, and those reported in 1985 and 1987, do not provide conclusive evidence that grizzlies do not exist in the Bitterroots. However, for all practical purposes, they provide pretty good evidence that grizzlies have probably been absent from the area for at least the past 50 years.

I hope this helps clarify interpretation of the results of the surveys. Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Wayne Melquist".

Wayne Melquist, Ph.D.
State Endangered Wildlife Coordinator

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APPENDIX 24. CORRESPONDENCE BETWEEN USFWS AND GOVERNOR OF MONTANA REGARDING GRIZZLY RECOVERY



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

In Reply Refer To:
FWS/DTE/CCU98-00622

MAY - 1 1998

Honorable Marc Racicot
Governor of Montana
Helena, Montana 59620-0801

Dear Governor Racicot:

Thank you for your thoughtful letter of March 20 regarding Bitterroot grizzly bear recovery. You raise some important points and we will answer in order of the subjects you raised.

Funding existing recovery efforts: You are correct in stating that the Service record on commitment to funding the existing recovery efforts in both the Northern Continental Divide Ecosystem and the Yellowstone has varied from year to year. Funding for recovery implementation in existing ecosystems such as the NCDE and Yellowstone has declined since 1992. The Service is attempting to maintain efforts to move forward toward recovery of the grizzly bear and to meet the commitments made to the agencies and the public concerning the grizzly bear recovery program. The reasons for reduction in grizzly bear recovery funding, despite increasing levels of recovery funding from Congress for implementing the Endangered Species Act, relate to the changes in how recovery funding is allocated among the Regional Offices of the Service and to the increasing number of species being listed and, thus, increased recovery responsibilities by the Service. We are committed to complete the Bitterroot Environmental Impact Statement. We share your concern about the impact of funding consistency on achieving recovery in existing ecosystems and that the Bitterroot recovery program should not erode existing recovery programs. We will have to see how additional funding for recovery is appropriated by Congress when we make the decision about implementing the alternative selected in the final EIS. Every effort will be made to stabilize recovery implementation funding for the existing ecosystems and to assure you that any actions to implement the Bitterroot recovery alternative will not result in reductions in the funding in existing recovery programs in other ecosystems. We understand that implementation of recovery in the Bitterroot, should that be the decision, will have to be funded above and beyond the funding necessary to continue recovery in existing ecosystems.

Mortality quotas and bear removal: We will not remove bears from either the Yellowstone or the NCDE for the Bitterroot if that would impact the mortality quotas and therefore delay recovery for these populations. Both the NCDE and Yellowstone ecosystems currently meet the mortality limits for total human-caused mortality, but they both exceed the limits for female mortalities. If the proposed action selected is placement of bears into the Bitterroot, the average removal from

Honorable Marc Racicot

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the Yellowstone and the NCDE would be 1.5 bears per ecosystem per year for 5 years, and any removals would be males. If the total mortality limit was exceeded for either ecosystem or even close to being exceeded, no bears would be removed from that ecosystem.

While you are correct that any removals from the Bitterroot would be before the fall season when many mortalities take place (bears removed for the Bitterroot would most likely be removed in July), we do have data on food resource and climate conditions each year which will allow us to estimate the level of human-bear conflict and potential bear mortality by midsummer. Working closely with Montana Fish, Wildlife and Parks, we will jointly analyze and decide on the risk of exceeding the mortality limits prior to removing any bears from the NCDE. While this is not completely foolproof, it does allow reasonable and joint judgment on the potential to exceed the mortality limit based on environmental conditions. If mortality figures begin to approach the established limits, bears will not be removed from those affected ecosystems until these figures are again within the prescribed limits. Also, there is potential to remove bears from the Yellowstone ecosystem from beyond 10 miles from the recovery zone line where such removals would not count against the mortality limit in any way.

In reference to your concern about the Service opposing Montana's spring grizzly bear hunt, the Service was initially concerned that such a hunt could exceed mortality quotas if there were no limits on the number of spring hunt kills. Once Montana assured us of their sensitivity to the need for such mortality limits, the Service supported this spring hunt. Such limits on spring hunting mortalities are similar to the limit of 1.5 bears per year on average to be moved into the Bitterroot from the NCDE, should such an alternative be selected.

As to the age of the bears removed, the optimum age would be subadult animals. As you correctly state, we would not want to move bears with a history of bear-human conflict into the Bitterroot. However, we would consider the use of subadult bears from areas where populations can sustain the limit of an average of 1.5 removals per year on average over 5 years. We believe there are many areas in the NCDE which could sustain this modest rate of removal and that such removals may in fact reduce human-bear conflict potential. Any NCDE bears removed would be subadult males which are often the most likely to get into trouble anyway.

An additional issue of concern related to achievement of recovery in Yellowstone or other ecosystems is the fact that current Montana law allows anyone to kill a grizzly bear threatening livestock. This Montana law is currently superseded by Federal law prohibiting persons from killing grizzly bears except in self-defense or defense of others. Before delisting can occur in any ecosystem, State laws must be adequate to allow the State to manage and limit human-caused grizzly mortality. Wyoming had a similar provision in their law. Because Wyoming law would preclude delisting, the Wyoming Game and Fish Department proposed changing this law to the Wyoming legislature in early 1998. The Wyoming legislature passed the law change this year to limit killing of grizzly bears by private persons, thus demonstrating that adequate regulatory mechanisms exist in Wyoming to allow the State to limit grizzly bear deaths. The current Montana law allowing anyone to kill a grizzly bear threatening livestock will preclude the

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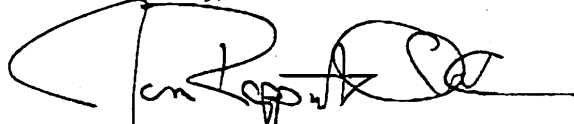
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possibility of delisting the Yellowstone grizzly bears until it is changed. We urge you to support such a change in Montana law so that Montana will have adequate regulatory mechanisms to limit grizzly mortality. It would be unfortunate if the only issue holding up a proposal to delist the Yellowstone grizzly population was Montana law allowing unregulated killing of grizzly bears threatening livestock. Service personnel have discussed this issue in detail with representatives of the Montana Fish, Wildlife and Parks Department. We remain available to assist in the necessary change in State law so that we can proceed with recovery and delisting when the population and habitat criteria have been met in the Yellowstone and other ecosystems.

We hope this answers your concerns in sufficient detail to allow you to continue to support the Bitterroot recovery effort should funding be available and to assure you that removals from existing ecosystems would not impair recovery potential for these ecosystems.

If you or your staff have further concerns and questions about this issue, please contact Regional Director Ralph Morgenweck at (303) 236-7920.

Sincerely,



DIRECTOR

OFFICE OF THE GOVERNOR
STATE OF MONTANA

MARC RACICOT
GOVERNOR



STATE CAPITOL
HELENA, MONTANA 59620-0801

July 1, 1998

Jamie Rapport-Clark
Director, U.S. Fish and Wildlife Service
U.S. Department of the Interior
Washington DC 20240

Dear Director Clark:

Thank you for your May 1, 1998, response regarding the Bitterroot grizzly bear environmental impact statement. We do appreciate your continued effort to explain the Fish and Wildlife Service's position on the various components of this complex issue.

At the outset, let me say, we still believe that a citizen management approach to the Endangered Species Act offers a new opportunity for progress that we have not had before. We strongly believe that collectively we can do a better job managing our shared resources -- which includes fish and wildlife -- while taking into consideration the stability and predictability of our local communities.

Now we are at a point where we need to determine whether the Department of the Interior (DOI) and U.S. Fish and Wildlife Service (Service) can meet the challenges which were laid out by the State of Montana in the formal comments submitted on September 20, 1997. If the challenges cannot be met, then the State will evaluate the situation and further refine our position.

We have continued to stress the importance of completing the current recovery process. In my October 7, 1998, letter referencing the challenges which must be met to receive Montana's support I wrote, there are "two (challenges) requiring the written assurances of the Secretary:

1. to ensure that adequate federal funding is in place for the recovery efforts in the Northern Continental Divide Ecosystem (NCDE) and the Yellowstone Ecosystem (YE), which now are distinctly suffering from lack of federal support prior to funding the Bitterroot reintroduction; and

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2. to assure that the removal of bears from the NCDE and YE do not count against the mortality quota or in any way have a negative impact on or delay of delisting in either of the other two ecosystems."

Unfortunately, the written assurance we have received is not sufficient.

Your November 1997 letter stated that the Service "may increase funds in the future to maintain recovery progress in the Northern Continental Divide and Yellowstone Ecosystems. This funding would be in addition to what is needed to accomplish the Bitterroot reintroduction effort." Your May 1, 1998, letter states "Every effort will be made to stabilize recovery implementation funding for the existing ecosystems to assure you that any action to implement the Bitterroot recovery alternative will not result in reductions in the funding in existing recovery programs in other ecosystems." In addition, your recent letter acknowledges grizzly bear recovery funding has decreased since 1992 even though overall funding for recovery has been increased by Congress. You further mention the problem is how recovery funding is allocated among the regional offices of the Service and new listings under the Endangered Species Act. While I appreciate the commitment about the Bitterroot proposal not impacting funding of other efforts, your letter still lacks a commitment to the funding necessary for recovery efforts in existing ecosystems such as the NCDE and YE.

As I mentioned in my March 20, 1998, letter we could provide factual verification of NCDE and YE funding commitments made and not kept by the Service. It is because of this and your recent qualified statements that we remain skeptical about the level of funding for NCDE and YE. Currently, Montana is contributing over \$225,000 to recovery efforts while the Service allocated \$25,000 in Section 6 funds for grizzly bears in Montana. This is important to mention since the Endangered Species Act actually requires 90 percent federal funding and 10 percent state.

If the Service cannot meet its existing financial commitments, we question the wisdom of creating new financial demands. As I mentioned in March, Montana's commitment to grizzly bear reintroduction is dependent upon a firm and irrevocable commitment that the Service itself will commit in writing to the funding necessary to completely and wholly fund the project as well as meet the considerable current and future financial needs of the NCDE and the YE efforts so that delisting can commence. I hope you can understand our reluctance to see a new effort started when existing priority needs cannot be funded.

We appreciate your clarification of the process for removing bears from the system. This is certainly an improvement over earlier descriptions. However, while it is clearer, we do not see how the process can fully alleviate our concern that removals which count against mortality quotas can lead to delays in recovery given our inability to control other forms of

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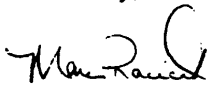
mortality. We also ask if there are enough bears to move them to the Bitterroot then why are there not enough bears to delist the bear? We who live in this state with the grizzly bear expect that recovery will be achieved and as mentioned earlier have contributed financially toward that goal. Any action that might jeopardize that goal will be dimly viewed, especially if mortality created by relocation out of the ecosystem is associated with a brand new recovery effort.

As to your comments about Montana statutes concerning grizzly bears, we are fully aware of the changes which would be necessary in the federal delisting process. We have asked the Service to brief the Montana legislative Environmental Quality Council, and we will take appropriate action at the appropriate time.

I still support the concept of a stronger citizen role in the Endangered Species Act process. However, I question the feasibility of launching into a new effort without achieving recovery in the current identified ecosystems. We are at a point in this process where we need to have mutually agreeable answers to these challenges and the other mentioned in our formal comments. If these cannot be reached, then I think we need to reevaluate this process.

I look forward to hearing from you.

Sincerely,



MARC RACICOT
Governor

cc: Don Barry, Acting Assistant Secretary for Fish and Wildlife and Parks
Pat Graham, Montana Fish, Wildlife & Parks

APPENDIX 25. DEFINITION REGARDING EXISTENCE OF A MINIMAL GRIZZLY BEAR POPULATION

(Note: The USFWS has been searching for grizzly bears in the Bitterroot Ecosystem since they were listed in 1975, and evaluated historical reports of grizzly bear observations prior to listing. The EIS Team reviewed and researched all sighting reports to date, and concluded there is currently no verified evidence of the presence of grizzly bears in the Bitterroot Ecosystem. Although the USFWS continues to receive sporadic reports of grizzly bears, none have been verified and confirmed. The USFWS continues to follow-up on all credible sightings and reports that are received in a timely manner.)

The process used for developing a definition regarding presence of a population of grizzly bears within the Bitterroot Ecosystem was similar to that used in the Environmental Impact Statement (EIS) for Gray Wolf Reintroduction to Yellowstone National Park and Central Idaho (USFWS 1994). Comments were solicited from 54 biologists familiar with bear populations, to build a definition of population presence for use in determining the feasibility of experimental population status under Section 10j of the Endangered Species Act (ESA). Under Section 10(j), experimental populations must be “wholly separate geographically from nonexperimental populations of the same species.” Wells and Richmond’s (1995) review of population definitions was provided to those solicited to aid in development of a definition. The initial request for comment was followed later by a second request to those that had not provided comment. The proposed definition was modeled after the definition used in the Gray Wolf EIS and biologists were asked to respond with comments or criticisms. The proposed definition that was provided to those biologists who were solicited follows:

“Documentation (consisting of photos within the area, verified tracks, and/or sightings by reputable scientists or agency personnel) of at least two adult female grizzly bears with young within the previous six years within a geographically distinct area separate from any existing populations.”

Comments on this proposed definition were received from 37 biologists. The majority of comments indicated that a definition should include concepts related to reproduction and the occupancy of a geographically defined area. Most respondents believed that observations of females with young were sufficient to indicate reproduction, but there was less agreement on how many females were necessary. Responses ranged from one to five females with young during one to six years. Several biologists thought one female with young could be a “dispersing or erratic individual” and that two females would indicate a higher level of reproductive continuity and likelihood of population persistence.

The question of geographical separation from other populations was raised by several respondents. Suggestions were made to use a distance from other populations that was based on an adult female home range diameter. Other respondents indicated that gene flow was an important factor, but was difficult to measure and dependent on the time frame involved. One respondent suggested that bears should be considered one population until genetic sampling determined otherwise.

There was some consensus that protocol for detection of a minimal population should be separate from the definition of what constitutes a minimal population. There was concern that this process was less a scientific

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concern than it was the development of legal semantics to justify a management approach. One respondent suggested that this lack of clear definition in ESA should be addressed through a legislative response.

Based upon comments received from 37 biologists, we amended the proposed definition to the following definition of a population for the purposes of the Final EIS:

“A grizzly bear population is defined by verified evidence within the previous six years, consisting of photos within the area, verified tracks and/or sightings by reputable scientists or agency personnel, of at least two different female grizzly bears with young or one female seen with different litters in two different years in an area geographically distinct from other grizzly bear populations. Verifiable evidence of females with young, to be geographically distinct, would have to occur greater than 10 miles (USFWS 1993) from the nearest non-experimental grizzly bear population recovery zone boundary.”

It is important to recognize that this definition represents a minimal grizzly bear population and is not intended to define a recovered or viable population. Minimal population merely identifies an existing population.

Literature Cited

- U.S. Fish and Wildlife Service. 1993. Grizzly bear recovery plan. U.S. Fish and Wildlife Service, Missoula, Montana. 181 pp.
- United States Fish and Wildlife Service. 1994. Final environmental impact statement. The reintroduction of gray wolves to Yellowstone National Park and central Idaho. USDI Fish and Wildl. Serv., Helena, Mont.
- Wells, J. V. and M. E. Richmond. 1995. Populations, metapopulations, and species populations: what are they and who should care? Wildl. Soc. Bull. 23:458-462.

The following biologists were asked to review the definition and provide comment or criticisms. Responses were received from individuals with an asterisk following their name.

Jon Almack
Gary Alt
Keith Aune
Vivian Banci*
John Beecham*
Bonnie Blanchard
Mark Boyce*
Dan Carney*
Jim Claar
Derek Craighead
John Craighead*
Lance Craighead*
Arnold Dood*
David Garshelis*
Mike Gibeau*
Susan Hall*
Tony Hamilton*
Alton Harestad*
Richard Harris*
Steve Herrero*

Fred Hovey*
Charles Jonkel
Wayne Kasworm*
Jeff Keay*
Kate Kendall
Roy Kirkpatrick*
Dick Knight*
Rick Mace
Tim Manley
David Mattson*
Wayne McCrory*
Bruce McLellan*
Wayne Melquist
Lee Metzgar*
Sterling Miller*
Dave Moody
Cliff Musgrave*
Steve Nadeau*
Paul Paquet*
Jim Peek*

Michael Pelton
Tom Puchlerz*
Harry Reynolds*
Bill Ruediger
John Schoen*
Charles Schwartz*
Shawn Sharpe*
Mitchell Taylor
Michael Vaughn*
Wayne Wakkinen*
Robert Weilgus*
John Woods
Don Young
Peter Zager*